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Recommended by: William A. Bell, Sr., Mayor
Public Improvements and Beautification Committee

Submitted by: Ralph D. Cook, City Attorney

Ordinance No. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 97-91 TO LEVY STORMWATER FEES ON PARCELS OF PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF BIRMINGHAM IN ACCORDANCE WITH ALABAMA ACT NO. 2014-439

WHEREAS, Alabama Act No. 95-775, as amended by Act No. 2014-439, authorizes municipalities to promote effective and efficient compliance with federal and state laws and regulations relating to stormwater discharges; and,

WHEREAS, the City of Birmingham operates a municipal separate stormwater system (MS4) subject to regulation and permitting under the federal. Clean Water Act and the Alabama Water Pollution Control Act; and,

WHEREAS, the Council of the City of Birmingham finds that it is in the public interest to amend its stormwater fees in accordance with Act No. 2014-439 to further improve the operation of the MS4 in compliance with federal and state laws and in the interest of the health, safety and welfare of the citizens of Birmingham.

SECTION 1. BE IT ORDAINED by the City Council of the City of Birmingham, Alabama, that Ordinance No. 97-91 is hereby amended as follows:

“1. Under the authority of Alabama Act No. 95-775, as amended by Act No. 2014-439, (Chapter 89C of Title 11, Code of Alabama, 1975) the City of Birmingham hereby levies upon each parcel of real property or portion thereof located in the corporate limits of the City of Birmingham a fee to be determined as follows for the purposes of funding the stormwater program and to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit ALS000001 or any subsequent permit(s) held by the City separately or in conjunction with other municipalities or Jefferson County or any other county:

“2. Alternatively, pursuant to the police power of the City of Birmingham, the City of Birmingham hereby levies upon each parcel of real property or portion thereof located in the corporate limits of the City a fee to be determined as follows for the purposes of funding the stormwater program and to comply with the requirements of NPDES Permit ALS000001 or any subsequent permit(s) held by the City separately or in conjunction with other municipalities or Jefferson County or any other county:

“A. The fee is levied on properties classified or assessed by the Jefferson County Tax Assessor and the Shelby County Property Tax Commissioner pursuant to Sec. 217 of Article XI of the Constitution of Alabama, 1901, as amended, and Sec. 40-8-1, Code of Alabama, 1975, as Class I and Class II land use classifications in the amount of one-half of one cent (\$0.005) per square foot of commercial space on or within each parcel or portion thereof located in the corporate limits of the City of Birmingham, as long as the levied fee calculated for the commercial space is equal to or less than three thousand dollars (\$3,000.00) annually per parcel and unless expressly exempted by this ordinance or Act No. 2014-439. For the purpose of this ordinance, “commercial space” is defined as the total area of all impervious surfaces (i.e., surfaces which prevent or impede the natural infiltration of rainfall) associated with and located on commercial property including but not necessarily limited to base building area plus the paved area within a parcel. The total area of commercial space may be determined through any data collection methods reasonably calculated to provide current and precise measurements of the area of impervious surface on a parcel.

“B. The fee is levied on any single family owner-occupied residential properties, historic buildings, or other sites classified or assessed by the Jefferson County Tax Assessor and the Shelby County Property Tax Commissioner pursuant to Sec. 217 of Article XI of the Constitution of Alabama, 1901, as amended, and Sec. 40-8-1, Code of Alabama, 1975, as Class III land use classification in the amount of \$10.00 per parcel or portion thereof located in the corporate limits of the City of Birmingham, unless expressly exempted by this ordinance or Act No. 2014-439.

“C. There will be no exemptions for this fee on any parcels located within the City of Birmingham, regardless of whether ad-valorem taxes are exempted for such parcels, except for:

“i. those parcels designated by the Jefferson County Tax Assessor and Shelby County Property Tax Commissioner as schools, churches, cemeteries or owner-occupied residences of owners who are over age 65, blind, or permanently and totally disabled;

“ii. any real property classified or assessed as agricultural or forest land as reflected by the Tax Assessor’s or Tax Commissioner’s record;

“iii. any real property not previously developed and classified or assessed as undeveloped property as reflected by the Tax Assessor’s or Tax Commissioner’s record;

“iv. any lands and/or facilities owned and/or operated by commission non-jurisdictional electric suppliers, as defined by Sec. 37-4-140, Code of Alabama 1975, by one or more entities under the jurisdiction and supervision of the Alabama Public Service Commission, or such entities’ affiliates, provided the owner of said property submits proof that such land and/or facilities are under the jurisdiction of the Alabama Public Service Commission.”

SECTION 2. BE IT FURTHER ORDAINED that the Jefferson County Tax Assessor and Tax Collector and the Shelby County Property Tax Commissioner are hereby requested to implement procedures necessary and appropriate to assess and collect these fees. Each county collecting such fee, charge, or assessment shall receive a one percent commission on all amounts collected which shall be deposited to the county general fund.

SECTION 3. BE IT FURTHER ORDAINED that the Mayor be and is hereby authorized to take whatever actions are necessary to implement the assessment and collection of these fees as authorized by law.

SECTION 4. SEVERABILITY. The provisions of this ordinance are severable. If any part of this ordinance is determined by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, such determination shall not affect any other part of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective when published as required by law.

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